IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Bail Appl..No. 4675 of 2007()

[CRIME NO.190/2007 OF POOYAPPALLY POLICE STATION]

PETITIONERS/ACCUSED

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1. J.S. ABHILAL,S/O. SASIDHARAN NAIR,
   AGED 31 YEARS,KARTHIKA (ALAPPADU), PONGANADU,
   KILIMANNOOR VILLAGE,THIRUVANANTHAPURAM DISTRICT.

2. JAGADAMMA, W/O.SASIDHARAN NAIR,
   AGED 57 YEARS, KARTHIKA (ALAPPADU), PONGANADU,
   KILIMANNOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT.

3. SASIDHARAN NAIR, AGED 62 YEARS,
   KARTHIKA (ALAPPADU), PONGANADU,
   KILIMANNOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI. K.SIJU

RESPONDENTS:

STATE OF KERALA PREPRESENTED BY
S.I. OF POLICE, POOYAPPALLY POLICE STATION
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4675 of 2007

Dated this the 2nd day of August 2007

O R D E R

Application for anticipatory bail. Petitioners are the husband and parents-in-law of the de facto complainant. Crime has been registered under Section 498A I.P.C on the basis of a private complaint filed before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. Petitioners apprehend imminent arrest. Marriage between the spouses took place on 4/2/2001. The couple have not been blessed with any children so far. There is strain in the matrimony. According to the learned counsel for the petitioners, baseless, false, vexatious and exaggerated allegations are being raised with the sole intention of vexing and harassing the petitioners. It is prayed that anticipatory bail may be granted to the petitioners.

2. The learned Public Prosecutor does not oppose the prayer. He, however, points out that there is a further allegation that miscarriage was caused. The learned counsel for the petitioner promptly points out that the said alleged incident took place long back and even admittedly there is subsequent co-habituation.

3. Having considered all the relevant circumstances, I am satisfied that this is a fit case where the discretion under Section 438 Cr.P.C can be invoked in favour of the petitioners. In coming to this conclusion, the reality that if the petitioners were arrested and confined in prison, that would close the doors of any possibility of harmonious re-conciliation, does weigh with me. I also take note of the fact that there is no specific allegation of any physical cruelty resulting in any bodily injury also.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioners.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 10/08/2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 3 p.m on 11/08/2007 and 12/08/2007 and thereafter on all

Mondays and Fridays between 10 a.m and 12 noon for a period of two months. Subsequently the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 10/08/2007, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 10/08/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007